IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3357 OF 2007

Mr.Imran Rashid Pathan ..Applicant

V/s.

The State of Maharashtra ..Respondent

Mr.Chandrabhooshan Mishra for the applicant.

Mr.U.V.Nikam APP for the State.

CORAM : V.C.DAGA,J

Date : 22.10.2007.

PC

1. Heard the learned Advocate for the applicant and the learned APP for the State.

2. The applicant is seeking anticipatory bail under Section 438 of Cr.P.C. in connection with C.R.No.271 of 2006 registered with Aazad Maidan Police Station for the offences punishable under Sections 332 & 353 of IPC.

3. On the last date of hearing i.e. on 11.10.2007 following order was passed :-

> Learned Counsel appearing for the Applicant submits that for the purpose of identification parade, the applicant will surrender on 16.10.2007 or on any other date whichever would be fixed by

the Prosecutor. Statement in this behalf is accepted and taken on record. Till then the learned APP states that the Applicant would not be arrested. However, the Applicant is expected to co-operate with the investigating agency. S.O. to 22.10.2007 for further hearing and order.

4. Pursuant to the above order the applicant appeared to have surrendered on 16.10.2007. However, on that date, according to the prosecution, the Complainant was not present. Therefore, no identification parade was carried out. It is needless to mention that in the aforesaid order it was specifically mentioned that it will be open for the Investigating officer to fix any other date so as to enable the applicant to surrender for the purposes of identification parade. Investigating officer did not take care to give another date for surrender. It is, thus, clear that the investigating officer is himself not very serious in the matter of investigation of the offence for which the present applicant is charged. No useful purpose would be served by asking the applicant to visit I.O. everyday, if the investigating officer himself is not interested in investigating the crime. On the contrary it will result in harrasement to the applicant.

5. In the aforesaid view of the matter, considering the attitude of the Investigating officer, I am inclined to grant anticipatory bail to the applicant on

executing of P.R.bond in the sum of Rs.25,000/- in the event of his arrest with following conditions :-

(a) In the event of arrest of the applicant in connection with C.R.No.271/2006 registered with Aazad Maidan police station, he shall be released on bail of Rs.25,000/- with one or two sureties to make up the said amount ;

(b) The applicant shall report to Aazad Maidan Police station every week on Saturday between 3.00 p.m. to 5.00 p.m. as well as when called and shall co-operate with the investigating agency ;

(c) The applicant shall not directly or indirectly, make any inducement or threat or pressurise any prosecution witnesses and shall not in any manner tamper with the prosecution evidence

(d) The order of anticipatory bail shall operate till the filing of the charge-sheet. After filing of charge-sheet, it would be open for the applicant to apply for regular bail before regular Court ;

(e) It is needless to mention that breach of any of the conditions by the applicant shall result in cancellation of bail.

6. So far as the presence of the applicant for the purpose of identification parade is concerned, it would be open for the investigating officer to fix date and ask the applicant to present for the purpose of identification parade with advance written notice of 72 hours. In the event of receipt of such notice, the applicant shall surrender for the purpose of identification parade. Failure to comply with the condition, the anticipatory bail of the applicant shall automatically stands cancelled.

(V.C.DAGA,J)